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Human Rights Field Operation in Rwanda

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the United Nations High Commissioner for Human Rights on the Human Rights Field Operation in Rwanda, in accordance with General Assembly resolution 52/146 of 12 December 1997.

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Annex

Report of the United Nations High Commissioner for Human Rights on the Human Rights Field Operation in Rwanda

Contents

		Paragraphs	*Page*
I.	Introduction	1–2	3
II.	Activities of the Human Rights Field Operation in Rwanda	3–27	3
	A. Terms of reference	3–9	3
	B. Review of the Field Operation, its closure and future cooperation with the Government of Rwanda	10–17	4
	C. Monitoring and reporting	18–21	5
	D. Technical cooperation and human rights promotion	22–27	5
III.	Overview of the human rights situation in Rwanda	28–43	6
IV.	Concluding observations and recommendations	44–55	8

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 52/146 of 12 December 1997, in which the Assembly requested the United Nations High Commissioner for Human Rights to report on the activities and findings of the Human Rights Field Operation in Rwanda to the General Assembly at its fifty-third session. The terms of Assembly resolution 52/146 were expanded by the Commission on Human Rights in its resolution 1998/69 of 21 April 1998, adopted without a vote. In that resolution, the Commission requested the High Commissioner to submit reports on the activities of the Human Rights Field Operation in Rwanda and on the implementation of the resolution to the Commission on Human Rights at its fifty-fifth session and to the General Assembly at its fifty-third session. The Economic and Social Council, in its decision 1998/266 of 30 July 1998, took note of Commission resolution 1998/69.

2. The present report provides an overview of the activities of the Human Rights Field Operation in Rwanda and the human rights situation in Rwanda since the High Commissioner's previous report to the General Assembly, submitted on 16 October 1997 (A/52/486). It should be noted that, on 11 May 1998, the Government of Rwanda suspended the activities of the Field Operation, pending discussions on the Operation's future role. The Field Operation was withdrawn from Rwanda on 28 July 1998 when the High Commissioner and the Government of Rwanda could not agree on a new presence of the Office of the United Nations High Commissioner for Human Rights to succeed the Field Operation.

II. Activities of the Human Rights Field Operation in Rwanda

A. Terms of reference

3. The Human Rights Field Operation in Rwanda was established at the request of the Government of Rwanda as part of the international community's response to the genocide and civil war that took place in Rwanda in 1994. As a result of those events, the institutions of justice, law enforcement, local administration and the civil service, as well as the social fabric of Rwanda, were completely destroyed. The Field Operation was designed, therefore, to meet not only the most immediate and pressing human rights needs, but also to put in place medium- and long-term initiatives so as to develop a human rights culture in Rwanda.

4. As set out in the 1994 agreement between the United Nations and the Government of Rwanda, the Field Operation's mandate was to investigate the genocide and other serious violations of human rights and international humanitarian law that took place during the armed conflict in Rwanda from April to July 1994; to monitor the ongoing human rights situation; to facilitate the return of refugees and displaced persons and the rebuilding of civil society; and to implement a programme of technical cooperation in the field of human rights, particularly in the administration of justice.

5. The Field Operation was successful in conducting initial investigations into the genocide with the creation of a special investigation unit for this purpose. The responsibility of investigating the genocide was passed to the International Criminal Tribunal for Rwanda when it became operational. The Field Operation assisted the Government of Rwanda in bringing its practices into line with international human rights standards through the country-wide deployment of human rights field officers who monitored the human rights situation. Through technical cooperation projects, the Field Operation also assisted the Government in rebuilding the judicial system; improving the situation in places of detention; and implementing human rights education and promotion activities, particularly with regard to vulnerable groups. In addition, the Field Operation was instrumental in assisting the Government and the Office of the United Nations High Commissioner for Refugees in ensuring the peaceful return and reintegration of a mass influx of over a million refugees in late 1996.

6. Since the High Commissioner's previous report to the General Assembly, the Field Operation has focused its monitoring activities on alleged violations perpetrated chiefly in the north-west of Rwanda; on the extremely harsh conditions of detention; and on national genocide trials.

7. On the basis of its observations, the Field Operation sought to redress shortcomings in the protection of human rights through the implementation of programmes of technical cooperation, emphasis being placed on strengthening the capacity of public institutions and civil society and working towards the development of a human rights culture in Rwanda.

8. In reports to and meetings with representatives of the Government of Rwanda, the Field Operation informed the Government of alleged human rights violations, proposed, and encouraged it to take, appropriate steps to investigate those allegations and, where necessary, take disciplinary and legal action against perpetrators. The Operation also

transmitted to the Government its observations and recommendations relating to legal reform, the administration of justice and the situation of detention.

9. At the time of closure at the end of July 1998, the Field Operation consisted of 58 international staff members and 85 national staff deployed in the country. The Field Operation reached its peak at the end of January 1997 with the deployment of 137 international staff in field offices in 11 of the 12 prefectures in Rwanda and at headquarters in Kigali. The Operation was restructured at the end of February 1997 following the deterioration of the security situation, including the killing of five Field Operation staff members on 4 February 1997. The headquarters of the Field Operation was composed of several units, namely the Office of the Chief of Mission, the Security and Communications Unit, the Operations and Documentation Unit, the Legal Unit, the Education and Promotion Unit and the Administrative Unit. The Field Operation's field teams were restructured to operate out of five regional sub-offices and one smaller field office, through which all activities were organized and carried out.[1]

B. Review of the Field Operation, its closure and future cooperation with the Government of Rwanda

10. The High Commissioner visited Rwanda in December 1997 and met with high-level government officials to discuss the human rights situation in general, and the future activities and the role of the Field Operation. At those meetings, the Government expressed to the High Commissioner its wish that the Field Operation's mandate be reviewed. The High Commissioner informed the Government that she would undertake an internal review of the Operation, with the full participation of the Government of Rwanda, with a view to keeping the Field Operation's mandate relevant to the changing situation. Initial steps towards such a review had begun in October 1997 with an expert assessment of the work of the Field Operation, in consultation with the Government of Rwanda.[2]

11. In February 1998, the High Commissioner appointed a new Chief of Mission, to lead the Field Operation and undertake an internal review of the Operation's role, priorities and functions, in order to assist more effectively the Government of Rwanda in its obligations to promote and protect human rights. In revising the mandate, the Operation was to place particular emphasis on technical cooperation with a view to leaving in place self-sustaining human rights institutions.

12. During the period of the review, thematic meetings were organized between the Field Operation and the Government of Rwanda to revise the different areas of the mandate. At the initial stage of those discussions, the Government presented the Operation with a draft agreement which focused exclusively on a programme of technical assistance. That proposal was put forward again at the fifty-fourth session of the Commission on Human Rights by a government representative, who expressed his desire to see the Field Operation replaced by a programme of technical assistance.[3]

13. On 11 May, the Government of Rwanda suspended the activities of the Field Operation, pending the conclusion of an agreement on a revised mandate. During the suspension, and while the High Commissioner tried to establish a procedure for jointly negotiating the new mandate, the Government terminated the original agreement with the Office of the High Commissioner on 29 June, allowing 30 days notice as provided for in article 32 of the agreement, offering to negotiate a new mandate prior to the expiry of the current one.

14. A delegation, led by the Deputy High Commissioner for Human Rights, held talks with the Government of Rwanda in Kigali from 13 to 15 July and presented a new draft agreement which focused principally on technical assistance but underlined the importance of monitoring, a function considered by the High Commissioner to be a prerequisite for identifying shortcomings in the human rights situation that needed to be addressed. Constructive discussions ensued between the two parties in a climate of mutual respect and cooperation. However, in the absence of an agreement on a new mandate, owing to the government's reluctance to accept a monitoring function for the Operation, the activities of the Human Rights Field Operation were terminated on 28 July 1998.

15. An administrative team was subsequently designated to do a financial audit and distribute the Field Operation's assets. It should be noted that some of the assets were donated to the Government of Rwanda to assist it in the strengthening of national institutions working towards the promotion and protection of human rights. A report for Member States which have politically and financially supported the Field Operation is in preparation. The Operation received contributions totalling US$ 32 million from Member States in its four years of activity.

16. The High Commissioner regrets that her Office and the Government of Rwanda were unable to reach a new agreement, considering the pivotal role that a new presence of the Office could have played in further strengthening

national capacities for the promotion and protection of human rights, and pending the effective functioning of the National Human Rights Commission. Nonetheless, the High Commissioner wishes to recognize progress made by the Government of Rwanda in strengthening the rule of law and improving the human rights situation at both local and national levels. In particular, the High Commissioner notes the Government's intention to create an independent National Human Rights Commission, legally established by Presidential Order No. 26/01 of 11 November 1997.[4] Although much work is still required for this institution to become operational, the Office of the High Commissioner stands ready to assist the Government of Rwanda and the Special Representative of the Commission on Human Rights towards this end, particularly if the National Commission conforms to the Paris Principles.

17. In addition, the Office of the High Commissioner is committed to pursuing a dialogue with the Government of Rwanda in connection with its longer-term human rights needs and to encouraging the emergence of a human rights culture as well as sustained development in the country. Future cooperation could include building capacity and implementing programmes of technical assistance in the field of human rights. The Office of the High Commissioner would aim to ensure that a new programme of activities would constitute an integral component of the overall United Nations strategy for sustainable development, consolidation of the rule of law and democracy in Rwanda.

C. Monitoring and reporting

18. During field visits from October 1997 to May 1998, human rights officers met with regional authorities and members of the public to investigate specific reports of human rights violations, and to monitor the overall human rights situation, including the functioning of the justice system, genocide trials and detention conditions. In United Nations security phase II areas[5] (Butare, Byumba, Gikongoro, Gitarama, Kibungo, Kigali Rural, Kigali Ville and Umutara Prefectures), such visits were carried out regularly to prefectural capitals and to a number of communes. In United Nations security phase III regions (Gisenyi, Cyangugu, Ruhengeri and Kibuye Prefectures), field teams were stationed in Gisenyi and Cyangugu towns for up to two weeks a month respectively, and conducted occasional field trips to Ruhengeri town. Kibuye Prefecture had not been visited since March 1997, owing to security and logistics-related constraints.

19. Field trips became less frequent, particularly in areas of armed conflict, as the security situation worsened and United Nations security regulations were tightened accordingly. Those regulations significantly reduced the number of communes that could be visited throughout the country and the ability of human rights field officers to carry out on-site investigations.

20. The Field Operation requested information from, and presented its findings to, the Government of Rwanda in the form of confidential reports and letters. Meetings were requested with the relevant authorities to discuss specific cases and trends. the Operation noted with appreciation the willingness of the Government of Rwanda, particularly the Military Prosecutor's Office, to provide such information and arrange follow-up meetings.

21. Monitoring and reporting on the human rights situation not only served to assist the Government in introducing corrective measures when necessary, but also helped the Operation to identify specific areas to which technical cooperation projects and human rights promotion activities could be directed.

D. Technical cooperation and human rights promotion

22. The Field Operation continued implementing its broad-based programme of technical assistance and human rights promotional activities, focusing on capacity-building for members of the judiciary, the penitentiary system and the security forces, other civil servants and national non-governmental human rights organizations; increasing general public awareness of specific human rights through formal and informal education activities and information campaigns; and channelling assistance to particularly vulnerable groups, especially survivors of genocide.

23. One of the more important activities initiated by the Field Operation was the Workshop on a Human Rights Agenda for Rwanda, organized by the Operation in collaboration with members of the Government of Rwanda and civil society, with a view to establishing a national plan for the promotion and protection of human rights in Rwanda. More than 60 representatives from the Government, public institutions and civil society attended the workshop from 2 to 9 March 1998 in Kigali. The participants began work on the development of a national human rights programme and called for clearer definitions of the roles of the different actors in the promotion and protection of human rights. A

committee comprising members of several national institutions was established to follow up on this work.

24. The Field Operation provided training for judicial officials of the *parquets* (prosecution staff) and the courts, in particular the Specialized Chambers of the Courts of First Instance. Between October 1997 and May 1998, the Operation organised and led sessions in at least four separate training programmes for *inspecteurs de police judiciaire and officiers de police judiciaire*. Training centred on human rights topics, including investigation techniques, police ethics, minimum standard rules for the treatment of detainees, ways to improve the functioning of the justice system in Rwanda, and criminal procedure concerning trial rights.

25. The Field Operation also placed particular emphasis on strengthening and supporting non-governmental organizations with a view to enhancing their capacity to promote and protect human rights. Between October 1997 and May 1998, six training sessions for members of local human rights non-governmental organizations were held on topics such as investigative methods for monitoring human rights violations, reporting techniques and project management.

26. The Operation carried out activities in the area of promotion and human rights education through projects implemented jointly by the Operation and Rwandan partners. The main objective of those initiatives was to create widespread human rights awareness among the population in general, through community leaders or other elements of civil society, including teachers, women, youth representatives and civil servants. In its mass awareness campaigns, the Operation produced and distributed videos, calendars, playing cards, journals and leaflets on human rights topics. The Field Operation also produced and screened videos on human rights themes and broadcast human rights-oriented radio programmes.

27. As part of its programme to channel assistance to particularly vulnerable groups, especially genocide survivors, the Field Operation held a seminar from 14 to 16 November 1997 on support for victims' rights, for approximately 40 members of genocide survivors' associations. The principal objective was to increase survivors' knowledge of the Rwandan judicial system with regard to the genocide trials in general, particularly the procedure to file for civil damages.

III. Overview of the human rights situation in Rwanda

28. The human rights situation in Rwanda remained closely linked to the increasingly deteriorating security conditions and the continuation of armed conflict in the north-west of the country (Gisenyi and Ruhengeri Prefectures), with insurgency and counter-insurgency activities spreading to areas of central Rwanda (Gitarama prefecture). The scale and intensity of the fighting have not shown signs of diminishing since October 1997.

29. Armed groups – composed of elements of the former Rwandan armed forces (ex-FAR) and former *interahamwe* militia who participated in the genocide – have continued to attack both civilian and military targets and have been able to obtain weapons despite the imposition by the Security Council of an embargo on the supply of arms in the region. Victims of the attacks have included women, children, genocide survivors, returned 1959 refugees ("old-caseload returnees"), Congolese Tutsi refugees and local civilian authorities. Expatriates were also victims of non-fatal attacks carried out by armed groups.

30. In response to those attacks, the Rwandan Patriotic Army (RPA) continued to carry out large-scale counter-insurgency operations in the area, at times resulting in mass arrests, arbitrary detentions, involuntary disappearances and right-to-life violations. The conflict in the north-west has led to the displacement of several thousands of civilians and an increase in food shortages.

31. The Field Operation documented other human rights violations, including killings of detainees during alleged escape attempts and ill-treatment of detainees, in some instances leading to their death. The Operation also received an increasing number of reports of missing persons, some of whom were alleged to be in detention in unspecified locations.

32. The detention situation, as a result of the enormous challenge of bringing to justice the great number of Rwandan citizens presumed to have participated in the genocide, remains one of the most serious human rights problems facing Rwanda. As at the end of April 1998, the total detainee population in Rwanda was estimated at 124,983, compared to 126,216 detainees as at 31 December 1997, and 92,392 detainees as at 31 December 1996. The number of detainees in central prisons was 81,213, while 43,770 (excluding military and sector-level civilian detention centres) were held in communal detention centres and gendarmerie brigades.

33. A law promulgated on 31 December 1997 extended the deadline for the regularization of detention to 31 December 1999 for persons in detention as at 31 December 1997, which means that some detainees will have spent as much as five years in pre-trial detention without charges being brought against them.

34. Conditions of detention were extremely harsh in the majority of central prisons, communal detention centres (*cachots*) and gendarmerie brigades visited by the Operation. Severe overcrowding, consequent poor sanitation, lack of sufficient food and health care, which have sometimes resulted in the death of detainees, were widely observed.

35. To address the question of overcrowding and severe detention conditions, the Ministry of Justice continued its policy of support to personnel establishing case files for detainees (i.e., *groupes mobiles of inspecteurs de police judiciaire*), transfers, new construction and structural rehabilitation. The work of the *groupes mobiles* led in some cases to the provisional release of persons against whom there was insufficient evidence or who fell into certain vulnerable categories, such as elderly persons, the terminally ill and minors.

36. Despite the above-mentioned measures to improve conditions of detention, the High Commissioner remains concerned about the extreme overcrowding and poor conditions still noted in many places of detention, particularly in communal detention centres. The High Commissioner welcomes the statements made by representatives of the Government of Rwanda at the fifty-fourth session of the Commission on Human Rights recognizing the severity of the detention situation and indicating the intention of the Government to continue the programme of releasing vulnerable persons from the prisons, as well as the need to explore alternative solutions to reduce the prison population.

37. Domestic trials of persons accused of genocide or crimes against humanity, which began on 27 December 1996, continued. As at 31 May 1998, judgements had been handed down by the Specialized Chambers of the Courts of First Instance in respect of 443 defendants in 156 genocide trials. The Operation monitored most of those trials and received information on the judgements of 385 defendants. Of this total, 32 per cent were sentenced to death and 32 per cent received life sentences.

38. Since the beginning of 1998, the pace of genocide trials has slowed down considerably in comparison with the previous year. There were a number of postponements, for a variety of reasons, including the absence of judges and defendants from the trials, procedural difficulties surrounding the appearance of witnesses in court and requests from civil claimants to file a claim or procure a lawyer.

39. Certain measures were taken by the Government to increase the speed of genocide trials, such as the introduction of large-scale trials, bringing together significant numbers of defendants in one trial. Although it seems likely that such large-scale trials will increase the overall trial rate, the Field Operation was concerned that they could also be a cause for delays, as there is not, currently, a sufficient number of lawyers to represent large numbers of defendants and civil claimants simultaneously in several areas of the country.

40. Despite the slower pace of genocide trials, the Field Operation observed significant improvements in the functioning of the trials, such as an increase in the number of defendants and civil claimants represented by lawyers in trials, an increase in the number of prosecution witnesses testifying in court and the establishment by the Rwandan Bar of its *Bureau de consultation et de défense*, through which Rwandan lawyers have been assigned to represent defendants and civil parties in the Kigali area.

41. On 24 April 1998, the Government publicly executed 22 defendants found guilty of genocide crimes at five sites in Kigali Ville, Kigali Rural, Kibungo, Umutara and Gikongoro Prefectures. Large crowds attended the executions, particularly in Kigali Ville. Several foreign journalists attending the executions received threats from or were harassed in some way by members of the public.

42. The High Commissioner made a public statement regarding the executions, concerned that not all judicial guarantees were respected in some of the cases and that such public executions would have a negative impact on the process of national reconciliation.

43. On 26 May 1998, the six persons accused of killing five Field Operation staff members on 4 February 1997 in the course of their field work in Karengera Commune, Cyangugu Prefecture, were sentenced to death by the *Chambre ordinaire* of the Cyangugu Court of First Instance. The defendants were tried without legal representation and there were no defence or prosecution witnesses in court. An appeal may be made within three months by the Prosecutor and will be examined by the Appeal Court in Cyangugu.

IV. Concluding observations and recommendations

44. The High Commissioner commends the work and achievements of the Human Rights Field Operation since its inception in September 1994. The Field Operation played a crucial role in monitoring human rights developments in Rwanda and, on the basis of its monitoring, in proposing and helping to implement programmes to promote and protect human rights and to lay the ground for the emergence of a sustainable human rights culture in the country.

45. The High Commissioner pays tribute to the five members of the Field Operation who lost their lives on 4 February 1997 in the service of promoting and protecting human rights in Rwanda with the utmost dedication and courage. The five staff members were Graham Turnball (United Kingdom of Great Britain and Northern Ireland), leader of the Operation's field team in Cyangugu; Sastra Chim Chan (Cambodia), human rights field officer; Jean-Bosco Munyaneza (Rwanda), interpreter; Aimable Nsensiyumvu (Rwanda), interpreter; and Agripin Ngabo (Rwanda), project assistant. The High Commissioner recognizes the sense of devotion, courage and professionalism of all human rights staff in Rwanda. The five who lost their lives made the ultimate sacrifice in their pursuit of promoting fundamental freedoms and respect for human dignity in Rwanda. Their contribution will always be remembered.

46. The High Commissioner would also like to express her deep appreciation for the moral, political and financial support accorded to the Field Operation by Member States. Periodic briefings were held with the international community at Kigali and Geneva to discuss the activities of the Field Operation and the overall human rights situation in Rwanda. A constructive dialogue between the parties helped ensure a more effective application of the Operation's mandate.

47. The High Commissioner is aware of the enormous challenges facing the Government of Rwanda in a post-genocide society and recognizes the steps it has already taken to improve the human rights situation in Rwanda. The High Commissioner encourages the Government's efforts towards creating an independent National Human Rights Commission and reiterates a call to the Government, the Special Representative and the international community to continue to support the establishment of this important institution, in conformity with the Paris Principles, as well as other initiatives to promote human rights and peaceful co-existence. The High Commissioner also encourages the efforts of national human rights non-governmental organizations striving towards promoting and protecting human rights in Rwanda.

48. The High Commissioner would like to thank the Government of Rwanda for its cooperation throughout most of the duration of the Field Operation and its willingness to work with the Office of the United Nations High Commissioner for Human Rights towards fostering national reconciliation, rebuilding civil society and developing a human rights culture in Rwanda.

49. The Office of the High Commissioner wishes to recall the respectful and friendly character of the discussions held at Kigali and confirms its readiness to participate in a new cooperative arrangement with the Government of Rwanda. Nonetheless, the High Commissioner regrets the closure of the Operation before national governmental and non-governmental institutions responsible for the promotion and protection of human rights had reached their full capacity for action. Despite noteworthy advances in certain areas, the High Commissioner believes that Rwanda would still benefit from sustained international cooperation and support to strengthen its domestic capacity for the promotion and protection of human rights.

50. The High Commissioner continues to be preoccupied by the insecurity and human rights situation in the north-western prefectures in view of the escalating armed conflict in the region and reiterates her concern at the ease with which armed groups appear to have access to weapons despite a Security Council-imposed embargo on arms supply to the region. The international community should take appropriate measures to enforce the embargo and to bring to justice individuals and organizations that supply arms illegally within the region. To this end, the High Commissioner welcomes the adoption by the Security Council on 9 April 1998 of resolution 1161 (1998), by which the Council requested the Secretary-General to reactivate the International Commission of Inquiry on the flow of arms to former Rwandan government forces and militia in the Great Lakes region.

51. The High Commissioner is deeply concerned by reports of military operations carried out in response to such attacks, leading to numerous civilian casualties, including significant numbers of the elderly, women and children, in circumstances strongly suggesting the occurrence of violations of human rights and international humanitarian law. The High Commissioner acknowledges the right and duty of the Government of Rwanda to protect its citizens and others present on its territory from attacks by armed groups and fully understands that the security threat posed by those

armed groups is serious. However, military operations should be carried out in conformity with human rights and international humanitarian law. All those who take no active part in hostilities must be treated in accordance with international humanitarian law in all circumstances.

52. The High Commissioner calls upon the international community to strengthen its multilateral and bilateral efforts to assist the Government of Rwanda to protect the civilian population in the conflict area and to put an end to the ongoing violence, whose frequency and intensity have reached alarming proportions.

53. The High Commissioner is concerned about the increasing number of alleged disappearances reported to the Field Operation and would like to encourage the Government of Rwanda to assist families in locating persons believed to be missing by improving the system of registers at all detention centres and by implementing a system of informing families of those persons who are detained, particularly in military detention centres.

54. The Government of Rwanda, with the support of the international community, should continue to strengthen the capacity of the judicial system, particularly taking additional steps to ensure full respect of fair trial guarantees, as required by Rwandan law and article 14 of the International Covenant on Civil and Political Rights. The Government and the international community should also continue to examine ways in which to address the problem of severe overcrowding in detention centres.

55. Finally, the High Commissioner urges a moratorium on the use of the death penalty in conformity with Commission on Human Rights resolution 1998/8 of 3 April 1998. In the alternative, imposition of the death penalty should be applied with considerable constraint and occur only in strict compliance with article 6 of the International Covenant on Civil and Political Rights, and in no circumstances should death sentences be carried out on persons under the age of 18 years.

Notes

[1] See the High Commissioner's latest report on Rwanda to the Commission on Human Rights (E/CN.4/1998/61) for a comprehensive overview of the structure of the Field Operation.

[2] The conclusions of that assessment were submitted to the General Assembly as an addendum to the High Commissioner's report on Rwanda (A/52/486/Add.1/Rev.1).

[3] Statement made by Mr. Gerald Gahima, head of the Rwandan delegation, on 14 April 1998 at the fifty-fourth session of the Commission.

[4] The National Human Rights Commission has a mandate to check on human rights violations committed by anyone on Rwandan territory, especially state organs and individuals under cover of the State, as well as any national or international organization working in Rwanda, when it is apparent that the relevant organs have not done much to check on those violations (article 3). In addition, the Commission has the task to use its findings to sensitize and educate the population in human rights issues and, wherever necessary, initiate legal proceedings (article 4). The Commission is to consist of seven members of Rwandan nationality chosen by the National Assembly, who have not yet been nominated.

[5] The security classifications are the following: phase I – precautionary; phase II – restricted movement; phase III – relocation; phase IV – suspension of programmes; phase V – evaluation.